

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA            )  
  )  
                  v.                    ) Cr. No. 03-10396-NG  
  )  
KAM WAI CHUI,                        )  
  )  
Defendant.

JOINT MOTION TO CONTINUE SENTENCING

The parties hereby move to continue the sentencing in this case from September 23, 2004 to the morning of October 18, anytime on October 20, the afternoon of October 25, or a date thereafter convenient to the Court. As grounds therefor, the parties state as follows:

1. On December 17, 2003, the defendant was indicted on wire fraud and money laundering charges stemming from an embezzlement scheme. On May 24, 2004, the defendant pleaded guilty to all counts without a plea agreement. He has been incarcerated since his November 2003 arrest.

2. At the Rule 11 hearing, the government informed the Court that if the defendant raised factual objections to the Presentence Report, the government might need more time to prepare for sentencing. The Court indicated that she would entertain a motion to continue if the need arose.

3. In its recent decision in United States v. Muffleman, Cr. No. 01-CR-10387 (Memorandum and Order, July 26, 2004, Gertner, J), the Court, in holding that the Sentencing Guidelines are unconstitutional in light of Blakely v. Washington, 124 S.Ct.

2531 (June 24, 2004), nevertheless noted that she "will recognize and surely be guided by [the Sentencing Guidelines]" in rendering sentences. See Muffleman, slip op. at 37.

4. Because the defendant has objected, on factual grounds, to all of the Guideline determinations in the PSR, the government will be forced to put on most of its case at sentencing through at least two summary witnesses. Accordingly, the government will need more time to prepare for the hearing.

5. The defendant also will need more time because its counsel will be in the midst of a murder trial in Massachusetts Superior Court starting next week.

WHEREFORE, the parties request that the Court reschedule the sentencing in this matter to the morning of October 18, anytime on October 20, the afternoon of October 25, or a date thereafter convenient to the Court.

Dated: September 16, 2004

Respectfully submitted,

MICHAEL L. SULLIVAN  
United States Attorney

By: Robert Jubinville  
Robert Jubinville, Esq.  
Counsel for Kam Wai Chui

Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
Assistant U.S. Attorney